

REMARKS

Claims 1-10 are pending in the application. It is gratefully acknowledged that Claim 4 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner objected to Claim 5 based on informalities. The Examiner rejected Claims 5, 9 and 10 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner has rejected Claim 1 under 35 U.S.C. §102(b) as being anticipated by Griffin (U.S. Patent 5,666,402). The Examiner rejected Claims 2, 3, 6 and 7 under 35 U.S.C. §103(a) as being unpatentable over Griffin. The Examiner rejected Claim 8 under 35 U.S.C. §103(a) as being unpatentable over Griffin in view of Schmid et al. (U.S. Publication 2005/0025302).

Please amend Claim 5 as set forth herein. Please add new Claims 11 and 12. No new matter has been added.

Regarding the rejection of Claim 5 under §112, first paragraph, the Examiner states that the specification does not support a switch actually containing an encryption device. Claim 5 has been amended to address this issue.

Based on at least the foregoing, withdrawal of the objection to Claim 5 is respectfully requested.

Regarding the rejection of Claim 9 under §112, first paragraph, the Examiner states that the specification does not support a method inside a switch having an encryption device where the encryption device is operable during a no power state of the switch. Applicant respectively disagrees with the Examiner. Unlike Claim 5, Claims 8 and 9 do not recite an encryption device, but rather recite a method for switching in a secure/non-secure bypass switch. Claims 8 and 9 do not recite that the encryption device is part of any switch, but rather recite switching relays to route signals through an encryption device to an output port. This is clearly supported in the

specification and drawings.

Based on at least the foregoing, withdrawal of the rejection of independent Claim 9 under §112, first paragraph, is respectfully requested.

Regarding the rejection of Claim 1 under §102(b), the Examiner states that Griffin anticipates each and every feature of the claim. Applicant respectfully disagrees. Griffin discloses a fiber optic telephone line extension system.

First, Claim 1 recites a secure/non-secure bypass switch. The switch contains the elements recited in the claim. The extension system of Griffin, as illustrated in FIG. 1 and its description, includes features that are extended distances from each other. Griffin does not teach or disclose a bypass switch.

Second, the Examiner equates the first port of Claim 1 with LINE(1) of Griffin and equates the first relay of Claim 1 with relay 84 of Griffin. Claim 1 states that the first port of the first relay is connected to the input port. In Griffin LINE(1) (the Examiner's first port) is not connected to relay 84 (the Examiner's first relay).

Third, the Examiner equates the first fiber optic modem of Claim 1 with Base Modem 10 of Griffin. Claim 1 recites that the first fiber optic modem is connected to the first relay (defined as relay 84 of Griffin by the Examiner). In Griffin, Base Modem 10 is not connected to relay 84.

Fourth, Claim 1 recites a second relay (which, by definition is separate and distinct from the first relay). The Examiner uses relay 84 to anticipate both the first and the second relay of Claim 1. One relay cannot be used to anticipate two relays.

Fifth, Claim 1 recites a second port, a third port, and a fourth port. The Examiner does not provide any rejection of any of these features of Claim 1.

It is well known that in order to anticipate a claim the reference must teach each and every element as recited in the claim. MPEP §2131. Since Griffin does not teach each and every element of Claim 1, Griffin cannot anticipate Claim 1, and the rejection under §102(b) must fail.

Based on at least the foregoing, withdrawal of the rejection of independent Claim 1 under §102(b) is respectfully requested.

Regarding the rejection of Claims 2 and 3 under §103(a), the Examiner states that Griffin renders the claims unpatentable. Applicant respectfully disagrees.

With respect to Claim 2, the claim recites, "wherein the switch operates in a secure mode when no power is supplied to the switch, and the switch operates in a non-secure mode when power is supplied to the switch." The Examiner alleges that Griffin has an inherent power off state, which although it may, is not sufficient to render unpatentable the recitation that the switch operates in a secure mode when no power is supplied to the switch, and the switch operates in a non-secure mode when power is supplied to the switch. The Examiner attempts to support his reasoning on the baseless position that no tampering to the switch can occur when power is off, and therefore the switch is secure. This definition flies in the face of the meaning of secure/non-secure in the claims, the written description and even the Examiner's own art, namely Schmid et al.

With respect to Claim 3, the claim recites, "wherein if the switch is operating in a non-secure mode, the input of the first relay is connected to the first output of the first relay, and the first input of the second relay is connected to the output of the second relay." The Examiner again only cites one element, namely relay 84, to reject two relays and the connections recited in the claim. This cannot support the rejection.

Based on at least the foregoing, withdrawal of the rejection of independent Claims 2 and 3 under §103(a) is respectfully requested.

Regarding the rejection of Claim 8 under §103(a), the Examiner states that Griffin in view of Schmid et al. renders the claim unpatentable. Applicant respectfully disagrees. Schmidt et al. teaches a virtual private switched telecommunications network.

Although it may be true that a combination of Griffin and Schmid et al. might produce a secure telephone communications system, this is not what is recited in Claim 8. Claim 8 recites a method of secure/non-secure switching in a secure/non-secure bypass switch. The combination of Griffin and Schmid et al. does not produce a method of secure/non-secure switching in a secure/non-secure bypass switch.

Claim 8 goes on to recite, "determining if a secure or a non-secure operating mode is selected". The combination of Griffin and Schmid et al. does not teach or disclose this determination of Claim 8.

Claim 8 goes on to recite two conditions and their results, namely, "if a non-secure mode is selected, configuring relays to route the signals through at least two fiber optic modems to an output port" and "if a secure mode is selected, configuring relays to route the signals through an encryption device to said output port." Neither of these conditions, nor their results, are either taught or disclosed by the combination of Griffin and Schmid et al.

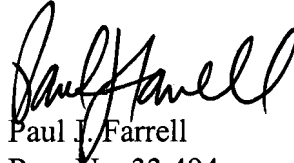
Based on at least the foregoing, withdrawal of the rejection of independent Claim 8 under §103(a) is respectfully requested.

Independent Claims 1 and 8 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-7, 9 and 10, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-7, 9 and 10 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-12, are

believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

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